



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

DECISION

MOP/167038

PRELIMINARY RECITALS

Pursuant to a petition filed July 01, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on August 04, 2015, at West Bend, Wisconsin.

The issue for determination is whether Petitioner's appeal is timely to contest a Medicaid overpayment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Anthony Gehring

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. Petitioner was sent 2 notices dated April 16, 2015 that informed her that she had been overissued Medicaid benefits for the period of December 2012 and January 2013 in the amount of \$170.12 and for the period of August through November 2014 in the amount of \$2100.53. Both were sent to Petitioner at the above address and did contain appeal instructions; noting that an appeal had to be filed within 45 days of the date of the notice. No appeal was filed with the Division of Hearings and Appeals until July 1, 2015.

DISCUSSION

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. By law a timely hearing request concerning Medical Assistance matters must be filed within 45 days of the notice of the agency decision. §49.45(5)(a), *Wis. Stats.* This hearing request was filed about a month past the deadline for appealing the April 16, 2015 overpayment notices which were sent to Petitioner at the above address (April 16 + 45 days = June 1). Thus the appeal is untimely and the Division of Hearings and Appeals no longer has legal authority to decide overpayment.

CONCLUSIONS OF LAW

That this appeal is untimely.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

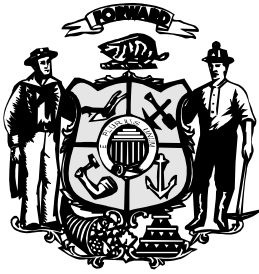
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of September, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on September 16, 2015.

Washington County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability